



Children affected by Armed Conflict in Nepal: Recommendations to the Security Council Working Group

September 2010

The Partnerships for Protecting Children in Armed Conflict¹ (PPCC) monitors violations perpetrated against children affected by armed conflict in Nepal by documenting individual cases as well as prevailing trends. PPCC is an active member of the 1612 Task Force in Nepal, and collaborates with the UN-led Monitoring and Reporting Mechanism (MRM).

The following points are based on the results of PPCC's monitoring activities from January to June 2010.² The Coalition to Stop the Use of Child Soldiers ("Coalition") has contributed information on rehabilitation based on research conducted in Nepal in July 2010.

The note highlights four key areas of concern: the situation in the *Terai* province; the frequent attacks on schools and forced school closures; the discharge of disqualified minors from the Maoist army; and the lack of accountability for violations perpetrated against children.

We hope these points will assist the Security Council Working Group on Children and Armed Conflict (SCWG-CAAC) in the finalization of its conclusions on Nepal, and serve as a basis for its first-ever planned field trip to Nepal.

The Nepali Context

Ten years of internal armed conflict have deeply affected the lives of children in Nepal. The Comprehensive Peace Agreement (CPA), concluded in 2006 between the Unified Communist Party of Nepal-Maoist (UCPN-M) and the Government of Nepal, brought the conflict to an end. Since then, the country has made modest progress towards implementing the peace plan. However, a climate of fear and insecurity persists. The security situation in the country is deteriorating, especially in the eastern and central regions of the Terai, where violent groups³ are increasingly active. Regular threats made by these groups are a major concern to the general population and with violent activities on the increase, children are more vulnerable to abuse.

The increased insecurity calls for the continued monitoring and reporting of child rights violations in Nepal. The systematic documentation of cases will help both the national and international communities to understand the magnitude of the problem, analyze trends, and plan accordingly. Finally, it remains critical to establish a system that holds perpetrators of child rights violations accountable in order to prevent further violations.

¹ Partnerships for Protecting Children in Armed Conflict (PPCC), established in Nepal in 2005, is a network of Nepal-based non-governmental organizations including Advocacy Forum, Backward Society Education (BASE), CARE Nepal, Concern-Nepal, HimRights and Save the Children Nepal. Its specific area of expertise is the monitoring of attacks on education: forced closures of schools, attacks on schools, inappropriate use of school grounds, abductions and/or recruitment of students and teachers, threats or attacks on teachers and students, and the political mobilization of students.

² See Annex 1.

³ In August 2009, *Kantipur* newspaper published what were said to be extracts from a leaked government report entitled "Categorization of armed groups and suggestion on talks" prepared by the Home Ministry during the period of the government led by the UCPN-M. According to the article, the report lists a total of 109 armed groups. Only 12 out of 109 armed groups active in the country are said to be political, while 70 of them are considered as "criminal groups". In reality, it is very difficult to differentiate between "criminal" armed groups and "politically motivated" armed group. For more information, see Advocacy Forum's report "*Torture and Extrajudicial Executions amid widespread violence in the Terai*", February 2010.

Key Concerns and Recommendations

1. Increased insecurity in the Terai

The **inappropriate use of children in activities of political parties, armed groups and other violent groups** is still a major concern. Though no specific cases of child recruitment were documented between January and June 2010, PPCC monitors have observed significant numbers of children participating in political rallies. In some cases, children participated wearing their school uniforms. One incident involved the sister organization of the Nepal Sadhbhawana Party, the Madhesh Rakshaya Dal. The party had recruited boys as unarmed “combatants”. They were seen during the party’s press conference on April 27th in Birgunj (Parsa district of Central Region). Another armed group, the Limbuwan Volunteers, used around 200 children in its mass assembly program in Sunsari. The children were brought in from Morang, Jhapa, and Dhankutta districts. These children were seen carrying sticks and wearing headbands of the party. The UCPN-M in Banke district of Nepal’s Midwestern Region used about 200 children from different district Village Development Committees in its assembly. Some of these children wore their school uniform and were carrying the flag of the party.

Some cases of **abduction** were documented between January and June 2010. In the majority of the cases, abduction is perpetrated to obtain ransom. For example, a group named Janshakti Terai Mukti Morcha (Rajan Group) abducted a 15-year-old boy from Mahottari district demanding 200,000 Nepalese rupees (USD 2,700) for his release. The boy was eventually released near the Indian border.

A few cases of **killing and maiming** were documented during the reporting period. Little is known about the motives for these killings. In March, a 17-year-old boy was killed in Bara district. This happened during a clash between the police forces and the group named Akhil Terai Mukti Morcha (Goit). The group has accused the police force of killing the boy after his arrest, while the police claim the boy was killed during the clashes.

Landmines and other explosive devices remain a serious threat to the security of children in the Terai. One documented case took place in January 2010 in Saptari district of Eastern Region. A girl child found an explosive device and played with it. She sustained injuries on hands and legs when it exploded.

Recommendations:

The UNSC WG-CAAC should urge:

- All political parties, sister organizations, and other groups to ensure that children are not used for any violent activities. Urge them to develop a code of conduct of not using children and strictly implement it in their practice. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.42.*)
- All armed groups to publicly commit themselves to ending violations of children’s rights, including the recruitment of persons less than 18 years of age. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.43.*)
- The government of Nepal to enhance the existing security system to address the lack of public security in the Terai region. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.44.*)
- The UN Country Team to commit ongoing support to the monitoring and reporting of violations against children perpetrated in the Terai. Special effort should be given to the identification of responsible armed groups as well as strategies for prevention and response by all relevant actors. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.43.*)

2. Forced closure/attacks on schools by political parties, armed groups, and criminal groups

The growing trend of attacks on schools and/or inappropriate use of educational facilities for the activities of political parties, armed groups and other violent groups⁴ is an issue of major concern. The trend has severely affected children's right to an education and imperils Nepal's future. PPCC monitored 77 cases of forced closures or attacks on schools between January and June 2010. This means that **"attacks on schools" is the most widespread child rights violation** monitored by PPCC observers during the reporting period.

For example, UCPN-M used the classrooms of a school in Bardiya district to store their weapons to be used for military training. The school premises were also used as a training ground. The school was subsequently occupied by the UCPN-M for military and training purposes for a period of three days. In Siraha district, schools were closed for two days in March by the Madhesi Janadhikar Forum while they demanded the implementation of an agreement with the government. Over 400 schools, or approximately 25,000 students, were affected by this closure.

Recommendations:

The UNSC WG-CAAC should:

- Request additional information from the UN Secretary-General on the extent of attacks on schools in the next MRM country report on Nepal, as well as strategies for prevention and response by all relevant actors and recommendations for improving response and enhancing accountability for attacks on education in Nepal. *(Not reflected in the SG's report.)*
- Urge all political parties, armed groups, and other violent groups to refrain from attacking schools or inappropriately using schools and educational facilities for military training, propaganda, or recruitment. Schools must be opened during *bandhs* (general strike) and not affected by any political unrest. *(cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.41.)*

3. Rehabilitation programs for the "disqualified" minors⁵

In early 2010, the United Communist Party of Nepal (Maoist) (UCPN-M) discharged the 4,008 people who were disqualified during the verification of combatants that took place in late 2007. Disqualification resulted from the individual being assessed to be under 18 at the time of verification (2,973) or having joined the People's Liberation Army (PLA) after May 2006. The UCPN-M had excessively delayed the discharge of these disqualified individuals.

At the time of release of the disqualified from the cantonments only 1,843 of the 2,973 disqualified⁶ for being under 18 at the time of verification were present for the formal releases. The 1,130 "no shows" had left the cantonments in the years between the verification and the discharge. It is suspected that of those present some had returned to the cantonment specifically for the release. Immediately prior to the release, the United Nations was given approximately ten minutes with each of the disqualified to provide them with information on rehabilitation options. The UN had not been able to negotiate access to the disqualified prior to the release to carry out surveys of needs and aspirations. Among the released were 15 children under the age of 16 (indicating children as young as 13 had been cantoned with adult combatants for over three years under the monitoring of the United Nations). In addition, 495 of those released were between the ages of 16 and 18 years and the remainder were over 18 years of age.

The discharged have been offered a choice of four packages by the UN: education, vocational training, income generation or health worker training. They must take up the packages within one year of release and the maximum that

⁴ PPCC monitoring data capture 44 cases of attacks on schools/cases of inappropriate use of schools between August 2008 and September 2009, while 77 cases were monitored in the period between January and June 2010 alone.

⁵ This section is based on information provided by the Coalition to Stop the Use of Child Soldiers.

⁶ 30% of the disqualified are girls or women.

can be spent on each individual is 100,000 rupees (USD 1,260). There have been some specific concerns with the details of each package, many of which the UN is working to address, such as the need for additional support for women with children; the regional nature of vocational training making it difficult for women to join and the options not being appropriate for women; need for additional support for employment and better links to regional markets; the need to ensure informal education packages are available; and need for additional education for those wishing to take health training packages but who do not have the necessary education qualifications. There are also concerns that the assessments that must be undertaken to join the program are not easily accessible because they only take place in five regional centers. Long journeys, including on foot, are sometimes necessary to reach these locations. Initially there was a low take-up of packages for a variety of reasons, including that the UCPN-M did not overtly support the process; the “no-shows” were lacking information on the packages; and a lack of information in general. The UN, through local partners, is now actively seeking out the “no-shows” and providing them with information on their options.

Young people formerly associated with the PLA have experienced some discrimination on return to communities. There is little understanding among the former child soldiers or the general public of why these individuals were disqualified. The label “unfit” - which is the translation of the Nepali word - is the term that is generally being used in relation to the disqualified, which risks resulting in low self-esteem and negative perceptions of their capacities among the public. There are indications that returning girls and young women in particular face some discrimination due to cultural norms regarding sexual purity and concern that these women have spent time outside of the home – in some cases this has resulted in early marriages of girls upon return.⁷ Those who have married within the PLA sometimes face discrimination within their in-laws’ home due to intercaste marriage, which is common within the PLA, but not generally accepted in Nepal.

Recommendations:

The UNSC WG-CAAC should make the following recommendations: (Not reflected in the SG’s report.)

To the UCPN-M:

- Specialized support, such as education and skills training, should be made available to those who were verified as over 18 and remain in the cantonments, but who were recruited when they were under 18 years of age.
- The UCPN-M should encourage the discharged to gain skills through enrolling in packages.

To the Government of Nepal and members of the Special Committee for Supervision, Integration and Rehabilitation of former Maoist Combatants:

- In specific cases, funds above the 100,000 rupees limit should be made available to ensure the successful reintegration of the discharged.
- The one-year deadline for enrollment should be extended to ensure that the maximum possible number of the discharged enroll in the packages.

To the UN agencies in Nepal:

- The UN Country Team should continue to refine the packages to ensure they are appropriate to the needs of those formerly associated with the PLA and ensure effective and sustainable reintegration of the discharged into civilian life.
- The UN Country Team should increase its investment in community sensitization activities, particularly in relation to why some individuals have been disqualified and also in regard to the rights of female former combatants, particularly given the broader context of gender discrimination in Nepal.

4. Impunity for perpetrators of child rights violations

a. Recruitment of children and impunity:

⁷ This was more common for those returning in the years following the end of the conflict. Those released in 2010 are often already married or empowered sufficiently to refuse a forced or early marriage.

There is abundant evidence that testifies to the child recruitment practices employed by UCPN-M and other actors in Nepal during the conflict. However, not a single perpetrator has been brought to court. There currently is no law in Nepal that criminalizes child recruitment and holds the perpetrators accountable.

b. Extrajudicial execution during conflict and impunity:

The National Human Rights Commission estimates that more than 500 children were killed during the decade-long armed conflict in Nepal. However, not a single case has been prosecuted.

The case of Maina Sunuwar,⁸ a 15-year-old girl from Kavre district is well known.

On February 19, 2004, 15 uniformed soldiers arrived at Maina's home and took her away. Her family repeatedly pleaded for her release with the authorities without result. The military denied her arrest and detention. Under sustained pressure from national and international agencies, including the UN High Commissioner for Human Rights (OHCHR), the army proceeded with an internal inquiry. The army reported that Maina had died during interrogation and four soldiers were brought before a court martial on April 21, 2004. According to army records, the accused were charged with minor offenses, such as using improper interrogation techniques. Under sustained pressure from national and international human rights actors, the police continued with investigations that retrieved Maina's body, which had been illegally buried at the Panchkal army camp. It was exhumed in March 2007.

On January 10, 2007, family members appealed to the Supreme Court, demanding the prosecution of Maina's case. The Kavre Public Prosecutor filed a charge sheet with the Kavre District Court against the four army officers. The charges include the illegal detention, torture, and killing of Maina Sunuwar. The court also issued summons for the arrest of the four accused. However, as of August 2010 they have not been arrested and the army challenges the civilian court's jurisdiction over the case.

Though it is important to arrest and prosecute the perpetrators in Maina Sunuwar's case, it is also important to highlight that her case is not unique, and that all perpetrators of child rights violations during the conflict should be held accountable.

Recommendations:

The UNSC WG-CAAC should urge the Government of Nepal:

- To ensure the immediate criminalization of recruitment of children to armed groups and armed forces in Nepal. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.46.*)
- To make use of the full range of justice mechanisms available to address impunity for perpetrators of grave child rights violations and prosecute them as per national and international law, which also necessitates the prosecution of members of the Armed Forces of Nepal and the national police, where evidence exists of crimes perpetrated by them. (*Not reflected in the SG's report.*)
- To ensure meaningful and safe participation of children in transitional justice mechanisms such as the planned Truth and Reconciliation Commission and the Disappearances Commission. (*cf. SG Report on children and armed conflict in Nepal, Recommendations, p.10, S/2010/183 para.45.*)

⁸ For more details on this case, please consult *Maina Sunuwar, Separating Fact from Fiction*. Advocacy Forum Nepal, 2010. http://www.advocacyforum.org/Maina_english.pdf